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SUBJECT: PROMINENT RIGHTS LAWYER PREDICTS BASHIR WILL GIVE UP HAROUN  
AND KOSHEIB

REF: A. KHARTOUM 1062

[1](#)B. KHARTOUM 1068

[1](#)1. (SBU) Summary: At the urging of the Arab League, the GOS has backed off from grand demonstrations and alarming public statements regarding the recent ICC indictment, according to famed Sudanese human rights lawyer and MP Salih Mahmoud Osman. Osman predicts that the GOS intends to surrender Ahmed Haroun and Ali Kosheib if the ICC will lift its indictment of President Bashir. Osman was supportive of the U.S. position toward the court, but suggested the U.S. do more to show it demands justice and accountability for the crimes in Darfur. End Summary.

[1](#)2. (SBU) With the Sudanese press howling about the International Criminal Court (ICC), and Government of Sudan (GOS) leadership publicly opposing any cooperation with the court, Salih Mahmoud Osman met with Poloff at the Embassy July 20 to discuss the Sudanese legal climate in the wake of the ICC announcement. Recipients of numerous European and American awards for his human rights work in Sudan, Osman sees the case of Prosecutor Luis Moreno Ocampo as very solid with overwhelming, concrete evidence (though he did not appear to have any inside information on what documents Ocampo might have been able to obtain to support the indictment). Osman reported that Arab countries are urging the regime's cooperation with the court and advising it to cancel demonstrations (which he noted the GOS always announces but fails to successfully organize).

[1](#)3. (SBU) Osman opined that Bashir's refusal to hand over Minister of State for Humanitarian Affairs Ahmed Haroun and janjaweed leader Ali Kosheib forced Ocampo's hand. He speculated there may be advisors around Bashir reminding him of his initial mistake, and that Bashir may now be prepared to cooperate with the court. "They have to give an answer. They may say, 'We won't surrender Bashir but you can have Ahmed Haroun.'" While panicked that Haroun and Kosheib will disclose information damaging to the regime upon their arrests, Osman said he believes insiders within the National Congress Party (NCP) also believe that Bashir's indictment, an alternative far more consequential, can be suspended in light of a handover of Ocampo's original suspects. (Note: This information contradicts what other observers have said, and what the Arab League "negotiated" with the regime, that Haroun and Kosheib could face a tribunal in Sudan rather than the ICC. End note.)

[1](#)4. (SBU) Osman cautions that international actors must be careful not to de-legitimize the claims of the Darfuri victims, whom the United States, in Osman's view, quite rightly categorized as victims of genocide in 2005. "The U.S. position is very balanced, not offending anyone," Osman said, "but the GOS has been using U.S. reservations to the ICC by interpreting it as if the U.S. is against the ICC, and so against justice. The U.S. remains silent, but the U.S. should say we are not against justice if there are crimes, but not necessarily through the mechanism of the ICC." Osman advised that if the U.S. opposes the ICC so strongly, it should push the creation of an ad hoc court, potentially in Sudan, to bring to

justice those who committed the crimes in Darfur.

¶5. (SBU) While the international community presses Darfuris to participate in next year's elections, justice for GOS crimes in Darfur remains Osman's chief obsession. "With the consequences of the situation in Darfur, there must be recognition that Darfuris are entitled to legal rights. The government has a right to deal with the rebels as a counterinsurgency, but there are rules it must follow." Osman noted that current Sudanese and international conventional wisdom appears to hold that the issuance of an arrest warrant will drive Sudan further towards war, but Osman disagrees, stating that justice is a precondition for peace.

¶6. (SBU) Comment: Osman may be right that the regime will ultimately be forced to give up Haroun and Kosheib, and we know that elements within the senior ranks of the NCP did consider turning them over to the ICC as an option to avoid an indictment of Bashir, but at this point it seems the GOS is headed in the direction of trying Haroun and Kosheib in Sudanese courts. It is noteworthy that Osman himself did not urge the US to push for the regime to turn Haroun and Kosheib over to the ICC, but rather advocated for trying them in local courts since the US is not part of the ICC. This is probably the most likely outcome, not just because Sudan does not recognize the ICC, but because the regime will not want Haroun and Kosheib to provide damaging testimony to the ICC.

FERNANDEZ